TABLE OF CONTENTS

SH 2418104

EXHIBITS

A Compact Disk Containing the Homicide Casebook URN 016-18603-0284-013, Containing, "911" Calls, Homicide Interviews, Photos of Deputies, Radio Traffic Scene Photographs, Prepared by Detectives Phil Guzman and Eric Arias.

B Justice System Integrity Division Letter of Opinion, Prepared by Head Deputy District Attorney Shannon Presby.

C Scene Diagram Used During Deputy Ortiz' IAB Interview.

D Scene Diagram Used During Deputy Casas's IAB Interview.

E Google Earth Image Used During Deputy Huerta's IAB Interview.

F Scene Diagram Used During Sergeant Rose's IAB Interview.

MISCELLANEOUS DOCUMENTS

(14) Signed Administrative Rights Force / Shooting.

ELA Station Call for Service, Incident #16352-027 (Tag #27).

ELA Station Early Morning Shift In-Service, for 12/17/16.

ELA Station PM Shift In-Service, for 12/16/16.

Range Qualification Records for Deputy Miguel Ortiz.

Range Qualification Records for Deputy Danny Galvez.



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
JOHN K. SPILLANE • Chief Deputy District Attorney
JOSEPH P. ESPOSITO • Assistant District Attorney

SCOTT K. GOODWIN • Director

July 27, 2018



Captain Christopher Bergner
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

Re: Officer Involved Shooting of Fidel Barrios
J.S.I.D. File #16-0635
L.A.S.D. File #016-18603-0284-013

Dear Captain Bergner:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the December 17, 2016, fatal shooting of Fidel Barrios by members of the Los Angeles County Sheriff's Department. Our detailed analysis of this incident is contained in the attached memorandum.

Very truly yours,

JACKIE LACEY
District Attorney

SHANNON PRESBY
Head Deputy District Attorney
Justice System Integrity Division

c: Deputy Miguel Ortiz, #[redacted]
Deputy Danny Galvez, #[redacted]

Hall of Justice
211 West Temple Street, Suite 1200
Los Angeles, CA 90012
(213) 974-3888
Fax: (213) 626-5125
WEBSITE: http://da.co.la.ca.us

MEMORANDUM

TO: CAPTAIN CHRISTOPHER BERGNER
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of Fidel Barrios
J.S.I.D. File #16-0635
L.A.S.D. File #016-18603-0284-013

DATE: July 27, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the December 17, 2016, fatal shooting of Fidel Barrios by Los Angeles County Sheriff's Department (LASD) Deputies Miguel Ortiz and Danny Galvez. We have concluded that Deputies Ortiz and Galvez acted lawfully in self-defense and in defense of others.

The District Attorney's Command Center was notified of the shooting at approximately 3:20 a.m., on December 17, 2016. The District Attorney Response Team responded to the location. They were given a briefing regarding the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based on investigative reports, audio recordings of interviews, firearm analysis reports, the autopsy report, crime scene diagrams and sketches, photographic and video evidence, and witness statements submitted to this office by LASD Detective Philip Guzman and Sergeant Eric Arias. The voluntary statements of all involved deputies were considered as part of this analysis.

FACTUAL ANALYSIS

On December 17, 2016, at approximately1:00 a.m., Deputy Ortiz was working patrol at the East Los Angeles station. He and his partner, Deputy Casas, received a radio call of an assault with a deadly weapon/gunshot victim at [redacted] They went to the location in their marked police vehicle wearing LASD uniforms. As they approached the location, Ortiz observed a woman speaking with Deputies Aceituno and Hempstead. The woman informed deputies that there was a gunshot victim in the rear house at the location. Ortiz was then contacted by a man who provided him with the same information. A second woman told Ortiz that her [redacted] was

the gunshot victim, and that he was inside [redacted] which was the [redacted] house on the property.[1]



View of the [redacted] houses and converted garage at the location.

Ortiz was informed that the victim, later identified as Fidel Barrios, was the only person inside the house. As Ortiz was speaking to witnesses, Deputy Galvez and his partner, Deputy [redacted] arrived at the scene. Galvez overheard someone saying, "My [redacted] got shot" and heard someone else say, "Someone got shot." Ortiz briefed Galvez about the information deputies had acquired so far, telling him there was a male victim of a gunshot wound in the rear bedroom of the [redacted] house at the location.

Deputies Ortiz, Lezama, Aceituno and Galvez entered the residence to find the victim and make certain there were no other victims, witnesses or armed suspects inside the location. The deputies all had their guns drawn, and announced their presence as they made their way through the house. Inside the house was a long hallway. Ortiz observed a room on the north side of the house and determined there was no one in there. As he exited the room, he heard a loud thumping noise as if something had hit the floor. Galvez heard the same noise. The noise was very loud. Deputies cleared another room on the south side of the house. Ortiz and Galvez then proceeded to the rear of the house. When they arrived at the bedroom at the rear of the location, Ortiz and Galvez observed Barrios seated in a chair in the northeast corner of the room. Barrios had blood on his face, hands and body. Neither Ortiz nor Galvez could see what the source of the blood was, but assumed that

[1] The property consists of [redacted] houses all on the same lot.

Barrios was the victim of a gunshot wound described by witnesses earlier. There was a shotgun at Barrios' feet with the barrel pointed at the doorway where he and Galvez were standing. The butt of the shotgun was along Barrios' right foot.



The shotgun recovered from Barrios.

Barrios began leaning forward, putting his hands in closer proximity to the shotgun. Ortiz and Galvez gave Barrios verbal commands to lean back and keep his hands by his side and not to reach for anything. Barrios continued rocking forward while reaching his hand towards the shotgun. Galvez believed these movements were initially tentative, as if Barrios was testing how far he could go. Barrios would lean back, then begin leaning forward again with his palm facing downward towards the weapon. Barrios made eye contact with the deputies as they held him at gunpoint. Barrios continued to look at Ortiz and Galvez as they repeatedly ordered him to lean back.[2] Barrios then reached down with his hand toward the trigger area of the shotgun. Galvez believed this movement was less hesitant than the previous movements and believed Barrios was "committed" to grabbing the weapon.

---

[2] Deputy Lezama was approximately ten feet behind Ortiz and Galvez. He was unable to see into the bedroom, but heard Ortiz and Galvez loudly order Barrios not to move, not to reach for something and to show his hands before hearing six to seven gunshots. Deputy Aceituno was also behind Ortiz and Galvez. He could see their backs and hear them ordering Barrios not to move, heard them say, "Don't reach for it!" He heard them order Barrios not to reach for something multiple times before he heard five to ten gunshots. Deputy Huerta was outside of the house. He heard deputies yelling, "Don't move! Don't reach for anything!" followed by six to seven gunshots.

Fearing that Barrios was intending to shoot Ortiz and himself, Galvez fired three to four rounds from his service weapon.[3] Ortiz, believing Barrios was reaching for the shotgun in an attempt to fire it at Galvez and himself, fired three to four rounds from his service weapon.[4] Barrios fell forward to the floor, landing on top of the shotgun.[5] Barrios' hands were under his body, and he was still moving.[6]

Paramedics were called, and once the rest of the house was cleared and Barrios was in custody, they rendered emergency medical aid to Barrios. Barrios was taken to the Los Angeles County Medical Center, where he was later pronounced dead by Dr. Marvil.

Several witnesses were located who heard or observed the events surrounding the initial shooting which caused deputies to respond to the location and/or the officer involved shooting.

[redacted] heard Barrios arguing with a man and a woman in the driveway of [redacted] between midnight and 1:00 a.m. The argument lasted approximately an hour. Approximately 20 minutes after the arguing stopped, [redacted] heard four to six gunshots which sounded like they were outside on the driveway. Approximately five minutes after hearing the gunshots, [redacted] saw the woman who had been part of the argument running east down the alley way.

[redacted] was inside his residence preparing to go to sleep when he heard approximately four gunshots coming from the driveway to [redacted] He looked out of his front window and observed two men walking westbound down the driveway and southbound down La Verne Avenue and out of view. He then observed a woman running westbound down the driveway and northbound on La Verne Avenue.[7]

[redacted] lived in a [redacted] on the property with his [redacted] advised investigators that [redacted] woke him up, saying she had heard two gunshots. [redacted] went inside the [redacted] house and observed Barrios in the back room with a wound to his head. He waited outside for deputies to arrive. Once deputies entered the residence, he heard them yell, "Don't move! Don't move!" followed by four gunshots. [redacted] told investigators that prior to the initial shooting the window in Barrios' room did not have any bullet holes in it.[8]

---

[3] Galvez explained to investigators that the shotgun could have been fired from its position on the floor and did not require that Barrios pick it up. The barrel of the shotgun was pointed at Ortiz and Galvez at the time they each fired their weapons.

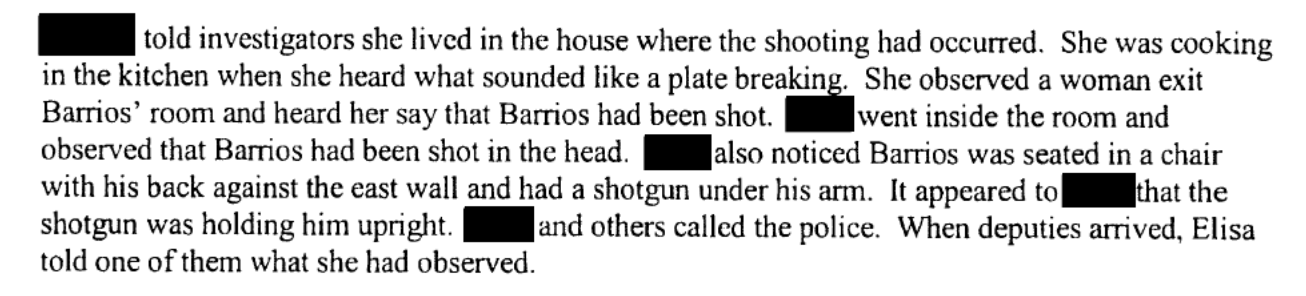
[4] A total of nine fired cartridge cases were found in the hallway and doorway of the rear room, consistent with having been fired by Ortiz and Galvez.

[5] The shotgun had one live round in the chamber. Another live shot-shell, of the same make and caliber, was found on the floor in the southeast corner of the bedroom. No latent prints were recovered during subsequent testing of the shotgun.

[6] Aceituno entered the bedroom immediately after the shooting and observed Barrios on the floor, with the shotgun underneath him, the barrel pointing towards the open doorway where Ortiz and Galvez had been standing. The position of the shotgun was also observed by other deputies prior to it being moved to another location in the room by Deputy [redacted] to secure the weapon and allow paramedics to treat Barrios.

[7] Investigators have been unable to identify these individuals or determine who shot Barrios through the window.

[8] This fact was corroborated by [redacted] who told investigators there were no bullet holes prior to the shooting that prompted the police being called that morning.


[redacted] told investigators she lived in the house where the shooting had occurred. She was cooking in the kitchen when she heard what sounded like a plate breaking. She observed a woman exit Barrios' room and heard her say that Barrios had been shot. [redacted] went inside the room and observed that Barrios had been shot in the head. [redacted] also noticed Barrios was seated in a chair with his back against the east wall and had a shotgun under his arm. It appeared to [redacted] that the shotgun was holding him upright. [redacted] and others called the police. When deputies arrived, Elisa told one of them what she had observed.

[redacted] told investigators she was told someone had shot Barrios. She entered his room and observed him seated in a chair, bleeding from the top of his head. Later, after deputies had entered the residence, she heard them saying, "Stay! Stay there!" and "Show your hands!" followed by three to four gunshots.

Four bullet holes were observed by investigators in the window of the rear room where Barrios had been shot. Ballistics investigators determined that four bullets were fired into the room from outside the house.[9] Three of those bullets were recovered from the east bedroom wall. The fourth bullet was recovered from Barrios' head during the autopsy. All four bullets were consistent with having been fired from the same weapon, which was determined to be a different weapon from the service weapons used by Ortiz and Galvez.

An autopsy was conducted on December 28, 2016. Doctor Panchel of the Los Angeles County Coroner's Office determined that Barrios had suffered a total of 11 gunshot wounds, three of which were fatal. Included in the fatal wounds was a gunshot wound to the top center of Barrios' head, which witnesses had described observing prior to the deputies' arrival. Toxicology testing done as part of the autopsy revealed that Barrios had marijuana, amphetamines, methamphetamine and alcohol in his system at the time of his death.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he or others were in imminent danger of great bodily injury or death. Penal Code § 197; *People v. Randle* (2005) 35 Cal.4th 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal.4th 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *see also,* CALCRIM No. 505.

In protecting himself or another, a person may use all the force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470. If the person's beliefs were reasonable, the danger does not need to have actually existed. *Id.*

"Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety." *People v. Collins* (1961) 189 Cal.App.2d 575, 589. "The 'reasonableness' of a particular use of force must be judged from the

---

[9] No casings were recovered from the area outside of the window.

perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight....The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." *Graham v. Connor* (1989) 490 U.S. 386, 396-397.

Ortiz and Galvez were dispatched to the location with knowledge that a shooting had occurred. Upon arrival, they were tasked with checking the house for victims, witnesses and potential suspects. Upon entering the rear room, they were confronted with an already fatally wounded Barrios in close proximity to a shotgun that was pointed at them. Barrios ignored their commands and repeatedly leaned towards the weapon. Ultimately, Barrios leaned toward the weapon with an open hand, as if he was attempting to grab the trigger. At that point, both deputies were justified in their use of deadly force. Once Barrios fell to the ground and there was no longer a visible threat, they both stopped firing their weapons. The evidence examined in this investigation shows that each of the involved deputies fired their service weapons in response to an imminent deadly threat.

CONCLUSION

We find that Deputies Ortiz and Galvez acted lawfully in self-defense and in defense of others when they used deadly force against Fidel Barrios. We are closing our file and will take no further action in this matter.